

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
Bel Air, Maryland 21014

JAN 27 2004

Case No. 5399  
Date Filed 1-23-04  
Hearing Date \_\_\_\_\_  
Receipt \_\_\_\_\_  
Fee \$1450

*Shaded Areas for Office Use Only*

Type of Application	Nature of Request and Section(s) of Code
<input type="checkbox"/> Administrative Decision/Interpretation	CASE 5399 MAP 38 TYPE Variance
<input type="checkbox"/> Special Exception	
<input type="checkbox"/> Use Variance	ELECTION DISTRICT 4 LOCATION 1800 Blk. of Morning Brook Drive, Forest Hill, Md.
<input type="checkbox"/> Change/Extension of Non-Conforming Use	BY Morning Brook LLC, P.O. Box 470, Fallston, Md. 21047
<input type="checkbox"/> Minor Area Variance	
<input type="checkbox"/> Area Variance	Appealed because a variance pursuant to Section 267-22G(4) of the Harford County Code to exceed
<input type="checkbox"/> Variance from Requirements of the Code	4 lots on a panhandle (proposed 5 lots) in an RR District requires approval by the Board.
<input type="checkbox"/> Zoning Map/Drafting Correction	

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

**Applicant/Owner (please print or type)**

Name Morning Brook LLC Phone Number 410-557-8443

Address P.O. Box 470 Fallston, MD 21047  
*Street Number Street City State Zip Code*

Co-Applicant \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Attorney/Representative Frederick Ward Associates, Inc. Phone Number 410-838-7900

Address 5 South Main Street (P.O. Box 727) Bel Air MD 21014  
*Street Number Street City State Zip Code*

## Land Description

Address and Location of Property 1800 Block of Morning Brook Drive

Forest Hill, MD 21050

Subdivision Morning Brook Farms II (Phase 3)

Lot Number 70-74

Acreage/Lot Size 7.3 Ac

Election District 4

Zoning RR

Tax Map No. 39

Grid No. 1D

Parcel 38

Water/Sewer: Private X Public       

List ALL structures on property and current use: None

Estimated time required to present case: 4 weeks

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? no

Is this property located within the County's Chesapeake Bay Critical Area? Yes        No X

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes        No X

Is this request within one (1) mile of any incorporated town limits? Yes        No X

## Request

Applicant is requesting a variance from Section 267-22 G (4) to allow the  
subdivision of 5 panhandle lots in a group, exceeding the 4 lot limitation.

## Justification

Due to the unique topography and environmental conditions on this site, construction  
of a 24' closed section paved public road with a 50' R.O.W. to access the developable  
parcel across the stream would significantly impact the system of non-tidal wetland  
and stream. By providing a single 16' common open section driveway to access these  
lots, the wetland and stream disturbance would be greatly reduced. The development  
of the panhandles would not be substantially detrimental to the adjacent properties.

In fact, the panhandles would lessen the impact to these properties.  
*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

**JAMES M. HARKINS**  
HARFORD COUNTY EXECUTIVE

**JOHN J. O'NEILL, JR.**  
DIRECTOR OF ADMINISTRATION



**J. STEVEN KAI-ZIEGLER**  
DIRECTOR OF PLANNING & ZONING

## **HARFORD COUNTY GOVERNMENT**

### **Department of Planning and Zoning**

February 17, 2004

#### **STAFF REPORT**

#### **BOARD OF APPEALS CASE NO. 5399**

APPLICANT/OWNER: Morning Brook LLC  
P.O. Box 470, Fallston, Maryland 21047

REPRESENTATIVE: Frederick Ward Associates, Inc.  
5 South Main Street, (P.O. Box 727), Bel Air, Maryland 21014

LOCATION: 1800 Block of Morning Brook Drive  
Morning Brook Farms II (Phase 3)  
Tax Map: 39 / Grid: 1D / Parcel: 38 / Lots: 70-74  
Election District: Fourth (4)

ACREAGE: 7.3 acres

ZONING: RR/Rural Residential

DATE FILED: January 23, 2004

HEARING DATE: March 10, 2004

#### **APPLICANT'S REQUEST and JUSTIFICATION:**

##### Request:

"Applicant is requesting a variance from Section 267-22G(4) to allow the subdivision of 5 panhandle lots in a group, exceeding the 4 lot limitation."

*Preserving our values, protecting our future*

## STAFF REPORT

Board of Appeals Case Number 5399

Morning Brook LLC

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### Justification:

“Due to the unique topography and environmental conditions on this site, construction of a 24’ closed section paved public road with a 50’ R.O.W. to access the developable parcel across the stream would significantly impact the system of non-tidal wetland and stream. By providing a single 16’ common open section driveway to access these lots, the wetland and stream disturbance would be greatly reduced. The development of the panhandles would not be substantially detrimental to the adjacent properties. In fact, the panhandles would lessen the impact to these properties.”

### **CODE REQUIREMENTS:**

The Applicant is requesting a variance pursuant to Section 267-22G(4) of the Harford County Code to exceed four lots on a panhandle (five lots proposed) in an RR/Rural Residential District.

Section 267-22G(4) of the Harford County Code reads:

- (4) *Groups not exceeding four (4) lots may have two (2) lots on panhandles in accordance with the following criteria. Panhandle lots and subdivisions shall have, as a minimum, the following width:*
  - (a) *Single panhandles: twenty-five (25) feet.*
  - (b) *Double panhandles: Twelve and one-half (12 ½) feet each, for a total of twenty-five (25) feet.*

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The subject property is located off the southeast side of Morse Road in the development of Morning Brook. The lot is situated at the end of Morning Brook Drive. A location map and a copy of the Applicant’s site plan are enclosed with the report (Attachments 1 and 2).

The property is located outside of the Development Envelope. The predominant land use designations in this area of the County are Agricultural/AG Residential and RR/Rural Residential. The Natural Features Map reflects parks, stream buffer systems and properties in Agricultural Preservation Districts and Easements. This property is located within the Rural Residential designation which is defined by the 1996 Master Plan as:

**Rural Residential** – Areas of focused rural development within the agricultural area, which allow low intensity residential opportunities while maintaining the character of the surrounding countryside. Water and sewer services are not planned for these areas. Residential density is limited to 1.0 dwelling unit per 2 acres.

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Morning Brook LLC

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Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 3 and 4).

### Land Use – Existing:

The existing land uses conform to the overall intent of the Master Plan. Agricultural uses include cropland, pastureland and large areas of dense woodland. There are several single-family residential developments in the immediate area. Commercial uses are located in the Rural Village of Jarrettsville. Enclosed with the report is a copy of the aerial photograph (Attachment 5).

The Morning Brook development is a single-family residential development consisting of large custom built homes. The topography of the area ranges from rolling to steep (Attachment 6). The subject property slopes down sharply from Morning Brook Drive to a valley and then sharply rises to the area of the proposed five lots. Traversing the property is a stream with flood plain and non-tidal wetlands. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 7 and 8).

### Zoning:

The zoning classifications conform to the intent of the Master Plan as well as the existing land uses. The predominant zoning classifications include AG/Agricultural and RR/Rural Residential. The subject property is zoned RR/Rural Residential as shown on the enclosed copy of the zoning map (Attachment 9).

### **SUMMARY:**

The Applicant is requesting a variance pursuant to Section 267-22G(4) of the Harford County Code to exceed four lots on a panhandle (five lots proposed) in an RR/Rural Residential District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

### Section 267-22G(4):

- (4) *Groups not exceeding four (4) lots may have two (2) lots on panhandles in accordance with the following criteria. Panhandle lots and subdivisions shall have, as a minimum, the following width:*

STAFF REPORT

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Morning Brook LLC

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Running through the center of the parcel is a steep valley containing a stream, non-tidal wetlands and Natural Resource District. The area between the road and the main body of the lots is approximately 3.7 acres and will be recorded as open space. The Applicant is proposing to group five panhandle lots together with a common drive to avoid the construction a 24-foot road. The construction of a driveway instead of the road would reduce the impact to the stream and wetlands.

(a) *Single panhandles: twenty-five (25) feet.*

The enclosed site plan proposes five panhandle lots grouped together on 12 ½ -foot panhandles for a total of 62.5-feet.

(b) *Double panhandles: Twelve and one-half (12 ½) feet each, for a total of twenty-five (25) feet.*

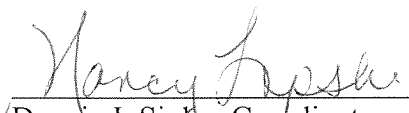
Each of the proposed five panhandles will be 12 ½-feet in width in one group with a common drive accessing the lots.


The Department finds that the property is unique due to the existing topography and environmental features. The construction of a public road designed to County standards would require considerably more fill because of the required road width and maximum permitted slope for a public road. The Applicant has provided a comparative analysis (Attachment 10) for the environmental impacts associated with construction of a public road versus a shared common drive. This analysis clearly demonstrates that the environmental impacts for the construction of a common drive are significantly less than the construction of a public road. The proposed variance in this case will not adversely impact the intent of the Code.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the requested variance be approved subject to the following conditions:

1. The Applicant shall submit a detailed preliminary plan to the Department of Planning and Zoning for review and approval.
2. The Applicant shall submit to the Department of Planning and Zoning a common drive agreement providing for the maintenance, use and responsibility of the common drive for review and approval with the final plat.

  
/for/ Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review

  
Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/ka